

MEMO ENDORSED

FREEMAN, NOOTER & GINSBERG

LOUIS M. FREEMAN
THOMAS H. NOOTER*
LEE A. GINSBERG

CHARLENE RAMOS
OFFICE MANAGER

USDC SDNY ATTORNEYS AT LAW
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75 MAIDEN LANE
SUITE 503
NEW YORK, N.Y. 10007

(212) 608-0808
TELECOPIER (212) 962-9696

September 19, 2016

Honorable P. Kevin Castel
United States District Judge
United States Courthouse
500 Pearl Street
New York, New York 10007

Re: United States v. Scott Tucker, et al.
16 CR 091 (PKC)

Dear Judge Castel:

Although I have tried two cases before Your Honor, it has now been more than five years since the last trial. My recollection is that in United States v. Geas, 09 Cr. 1239 (PKC) the court utilized some written form of questions presented to the jurors for the purposes of *voir dire*. While the trial in the above matter is still in the distance, we would appreciate it if the court would provide us with any written format that the court is currently utilizing for purposes of *voir dire* so that we may more efficiently determine what requests we wish to make and whether we wish to request that some type of questionnaire be utilized in this case.

Respectfully submitted,

/s/ Lee Ginsberg

Lee Ginsberg

cc: All Counsel by ECF

The Court does not have jurors complete written questionnaires, with one unusual exception.

The document attached is an example of "Questions for Jurors" used as an aid to memory in the oral questioning of jurors.

Often, additional questions are asked and there is extensive extemporaneous follow up.

SO ORDERED

[Signature]
USRJ
9-20-16

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

-----X
UNITED STATES OF AMERICA,

-against-

___Cr. ___(PKC)

QUESTIONS FOR JURORS

_____,
Defendant.

-----X

CASTEL, United States District Judge:

Please inform the Court if your answer to any of the following questions is "yes." If you would prefer not to give your answer in open court please say so.

A. General Questions

1. Do you have a problem with your hearing or vision that would prevent you from giving attention to all of the evidence at this trial?
2. Do you have any difficulty in understanding or reading English?
3. Do you have any special medical problems that might interfere with your service as a juror in this case?
4. Do you have any personal knowledge of the facts or the charges in the Indictment as I have described them to you?

5. Is there anything about the nature of the charges in the Indictment, as I have described them to you, which would hinder or prevent you from rendering a fair and impartial verdict?

6. Would you be unable or unwilling to follow my instructions as to the law governing this case?

7. Would you be unable or unwilling to accept and follow the principle that the defendant is presumed innocent throughout the course of the trial unless and until the government proves him guilty beyond a reasonable doubt?

8. Would you be unable or unwilling to accept and follow the principle of law that sympathy must not enter your deliberations as a juror and that only the evidence presented here in Court may be considered by you to determine the guilt or lack of guilt of the defendant?

9. Would you — for reasons that have nothing to do with the law or the evidence — be reluctant or unwilling to render a guilty verdict?

10. Would you — for reasons that have nothing to do with the law or the evidence — be reluctant or unwilling to return a verdict of not guilty?

11. Do you have any religious or ethical beliefs that would prevent you from passing judgment on another person?

12. Would you be unable or unwilling to accept and follow the principle of law that the question of punishment is for the Court alone to decide and that the possible punishment must not enter into the deliberations of the jurors as to whether the defendant on trial here is guilty?

13. Have you ever studied or practiced law or worked in any capacity for a law office?

14. Do you know or do you have an association with any member of the staff of the United States Attorney's Office for the Southern District of New York, the United States Attorney's Office for the District of _____, the Federal Bureau of Investigation, the _____ County Police Department, or the _____ County District Attorney's Office?

15. Have you, or has anyone with whom you are close, ever been employed by or had dealings with any law enforcement agency, whether federal, state, or local, including the United States Attorney's Office for the Southern District of New York, the Department of Homeland Security, Immigration and Customs Enforcement, the U.S. Customs and Border Protection, or any state, county or city police department?

16. Have you, either through any experience you have had or anything you have seen or read, developed any bias or prejudice for or against any of the entities mentioned in the last two questions?

17. Would you give the testimony of a law enforcement officer either more or less weight than the testimony of other witnesses simply because the witness is a law enforcement officer?

18. The witnesses in this case may include an investigator with the _____ Company. Would you be more likely to believe or disbelieve a witness merely because he or she is a private investigator working for an insurance company?

19. The Government is represented here by the United States Attorney for the Southern District of New York, who is Preet Bharara. The conduct of this trial will be in the immediate charge of Assistant United State Attorneys. _____ will also be assisted in this case by Special Agent _____ of the Federal Bureau of Investigation (the "FBI") and _____, a paralegal who works for the U.S. Attorney's Office. Do you know, or have you had any dealings, either directly or indirectly, with any of them?

20. The defendant in this case is _____. Do you know, or have you had any dealings, directly or indirectly, with the defendant, or with any relative, friend or associate of the defendant?

21. The defendant is represented by _____. Do you know _____ or anyone associated with his law firm? Have you had any dealing, either directly or indirectly, with him?

22. To your knowledge, do you have any relatives, friends, associates, employees or employers who know or who have had any dealings with the defendant, _____, _____, _____ or _____?

23. Do you know any of the people whose names appear on the document attached as Schedule A? This list includes the names of those who may testify or who may be mentioned during the course of the trial.

24. Are you familiar with any of the locations listed on the document attached to the end of this form?

25. Do you have experience as a fine arts collector, dealer or appraiser?

26. This case involves charges of wire fraud, mail fraud, bank fraud and access device fraud, commonly referred to as credit card fraud. Would you be unable or unwilling to render a fair verdict?

27. Have you, or anyone with whom you are close, ever been charged with a crime relating to wire fraud, mail fraud, bank fraud, access device fraud, theft, embezzlement, or any other type of financial crime or fraud?

28. Have you, or has anyone with whom you are close, either as an individual or in the course of business, ever been party to any legal action or dispute with the United States or any of the officers, departments, agencies, or employees of the United States, or had any interest in any such legal action or dispute or its outcome?

29. Have you, or has any member of your family, ever had a dispute concerning payment of money owed to you by the United States Government, including the Internal Revenue Service?

30. Have you, or has any member of your immediate family, ever been involved or appeared as a witness in any investigation by A) a federal or state grand jury, B) a congressional or state legislative committee, C) a licensing authority, or D) a government agency?

31. Have you, or has any member of your immediate family, ever been questioned in any matter by a federal, state or local law enforcement agency?

32. Have you, or has any member of your immediate family, ever been a witness or a complainant in any prosecution, state or federal, or arrested or charged with a crime?

33. Are you, or is any member of your immediate family, now under subpoena or, to your knowledge, about to be subpoenaed in any criminal case?

34. Do you know any other prospective member of this jury?

35. In the questions I have asked I have tried to direct your attention to possible reasons why you might not be able to sit as a fair and impartial juror. Now, apart from the questions I have asked you, is there any reason why you would be unable to sit as a fair and impartial juror in this case and render a true and just verdict without fear, favor, sympathy or prejudice in accordance with the law as I instruct you?

B. Questions for Individual Jurors

- a. Please state your county of residence and whether you have lived in this county for more than five years.
- b. Do you own or do you rent your home?
- c. Where were you born?
- d. How far did you go in school?
- e. If you attended school beyond high school, what was the major subject area that you studied?

- f. What kind of work do you do for a living? (If retired or unemployed, describe what kind of work you last did.) Who is your present employer?
- g. How long have you been doing this kind of work? How long have you been employed by your present employer?
- h. Do you have a spouse or significant other with whom you live? What kind of work does that person do for a living?
- i. Do you have children? If any of them are employed, what kind of work do they do?
- j. How do you keep up with the news? Which websites, social media sites, news programs, radio programs, newspapers, magazines do you regularly access?
- k. What television programs do you regularly watch?
- l. Do you belong to any clubs, associations or civic groups, such as, for example, Kiwanis, Rotary Club, Knights of Columbus, Veterans of Foreign Wars, American Legion, American Civil Liberties Union, National Rifle Association, League of Women Voters or any other organization? If yes, please state those to which you belong.
- m. Have you ever served as a member of a grand jury?
- n. Have you ever served as a juror? If so, when did you serve and was it a civil or criminal case? Did the jury reach a verdict? (Do not tell us what the verdict was.)

SCHEDULE A

Names

Locations